

1 **40. ISSUE: Re: MACE: SEIZURE BY MCSO OF ZONE 2 (ICJIS) SYSTEM, AND**
2 **ORDER BY HENDERSHOTT TO THREATEN WETZEL IN OET**
3 **MANAGEMENT WITH ARREST – SUBJECT: HENDERSHOTT**
4

5 **Chief Deputy David Hendershott**
6

7 H35A. Allegedly, Chief Deputy David Hendershott inappropriately ordered Deputy
8 Chief Scott Freeman to seize control of the Zone 2 ICJIS System, which was
9 under the control of Maricopa County Office of Enterprise Technology (OET),
10 to include searching files, and changing passwords, without appropriate legal
11 authority. Scott Freeman refused the order to do so, and the order was carried
12 out by Deputy Chief Trombi and other MCSO personnel.
13

14 H35B. Allegedly, in advance of the seizure of control by MCSO of the ICJIS system in
15 County offices, David Hendershott ordered Scott Freeman to threaten Steve
16 Wetzel, a manager of Maricopa County Office of Enterprise Technology, with
17 arrest.
18

19 **DOCUMENTARY EVIDENCE**
20

21 **Exhibit F1. 8/11/09 – Freeman Notes re: Rampy, with ARS 13-2316, 41-1756 and**
22 **41-1750**
23

24 The handwritten notes of Scott Freeman from August 11, 2009, relating to the MCSO
25 takeover of Zone II, reads as follows.
26

27 DH asked me to approach Wetzel to inform him we were taking control of Zone II and
28 that if he (Wetzel) cut part of the system he would be arrested.
29

30 I told DH, Loretta, Shelly and Rampy I needed more info on authority to arrest as well
31 as under what statutes we were acting to seize the system.
32

33 Rampy told me 41-1750 & 41-1756. Upon review of those statutes as well as computer
34 tampering in a discussion with Rampy & Shelly I was not convinced of our authority to
35 seize control of M/C facility and was concerned that MCSO must be violating computer
36 tampering if we overstepped our authority.
37

38 I informed DH of my concerns and he politely informed that he was too tired to bring
39 me up to speed and so he would get someone to replace me.
40

41 **Exhibit F6. 1/25/10 – “Notes after DH at Staff” re: Zone 2**
42

43 A transcript of Scott Freeman's notes from January 25, 2010, which he appears to have
44 prepared after a staff meeting regarding Zone II, read as follows.
45

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Report of Administrative Investigation by PCSO
April 11, 2011

1 DH held me after staff regarding Zone 2.

2
3 He asked what I knew about Zone 2 lawsuit I said that I knew very little, only what I had
4 gathered from the day before we seized the system and I had read in the papers.

5
6 He said that he did not recall me refusing to do anything as is the rumor around the 19th
7 floor and is of some interest at the grand jury.

8
9 I said that I remembered him asking me to take an hour or two to review the info
10 (statutes letter) provided by Rampy and that when I returned and said that I did not have
11 enough info to proceed that we may not have the authority to proceed- he told me that I
12 did not have the whole picture and that he did not have the time to brief me on it.

13
14 Later 1-25-10 @ 1330 he called me in his office & repeated his statement that people are
15 under the impression that I refused to do as directed and that he simply did not have the
16 time to brief me.

17
18 On day before Zone Z take over D.H. called me into meeting w/ Rampy, Loretta, (poss.
19 Chief Bunn)

20
21 The were discussions on going about searching desks & computers for information - I
22 asked if we were doing a search warrant & was told no, that we were going over to take
23 control of the Zone 2. I asked about our authority to do that and was told Rampy that
24 DPS had done an audit & found us lacking because we did not have administrative
25 control of the system.

26
27 I said that we could do no searching without a warrant or other court order directing us
28 to do that and I asked under what authority we were doing this.

29
30 DH told me that there were statutes and I asked what they were.

31
32 He directed Bob Rampy to provide me with those statutes. He did & I asked for some
33 time to review them. (DH told me to take 1 or 2 hours)

34
35 My mission per DH was to find an OET employee named Wetzel and threaten him with
36 arrest if he interfered or cut power to the system. My question was again on what
37 authority?

38
39 I pulled the statutes given by Rampy and found nothing that I felt gave MCSO the
40 authority to proceed. I also reviewed state criminal laws related to computer tampering
41 and grew concerned that if we did not have the authority we would be committing a
42 felony under computer tampering.

43
44 I met next w/ Shelly Bunn & Rampy in Shellys office and asked them to further explain
45 how this could go fwd.

1
2 Rumpy showed me the letter from DPS indicating that we were deficient because a law
3 enforcement agency was not in administrative control.

4
5 I asked where he got the authority to go and seize these computers. He said that it was
6 his job to be in control, and I said I understood his title but where & what gives him
7 authority. He was unsure

8
9 I read he and Shelly the title 13-2316.A.1. and A.2 and asked if they could tell me that
10 they were not violating that statute. They said no they were not sure.

11
12 I told them I was going to tell D.H. that I would not be able to go ahead with this and
13 that until they were sure they should not proceed.

14
15 I told them that based on previous history w/ DH, one of two things would happen. This
16 seizure would not happen or I would be replaced.

17
18 I went to DH's office and told him that based on my review and info at hand I could not
19 proceed and I was not sure we were not committing a crime if we did this.

20
21 He said that I did not have all the information that he had been working on this for some
22 time and that he did not have the time to brief me.

23
24 He told me to call Trombi & tell him he needed to have @ 10 Deputies in plain clothes
25 in the conference room the next a.m. I called Trombi & passed the message & I told him
26 to call DH

27
28 **WITNESS ACCOUNTS**

29
30 **Loretta Barkell**

31
32 According to Barkell, Chief Hendershott decided the Sheriff's Office should be in total
33 control of the Zone 2 system and "wrestle it from the County." Hendershott cut out
34 Shelly Bunn, who heads up the Technology Section for MCSO, and worked directly with
35 Bob Rumpy. Apparently, when the Chief decided he was going to take over the ICJIS
36 Zone 2 system, had had called Shelly and Loretta down to his office to discuss how they
37 could hire someone to come in and immediately reprogram the computer systems.
38 They had used a company previously called Pragmatica. Hendershott felt that MCSO
39 was going to take over what was rightly the Sheriff's Office, and he wanted to have the
40 consultants available to take care of the reprogramming. According to Loretta, there
41 had been conflict and litigation, off and on, about who should control Zone 2 and who
42 was responsible for it. The conflict started as a result of renewing a memorandum of
43 understanding between Maricopa County and DPS. MCSO would not agree to a
44 memorandum of understanding, because the County was asserting control, when
45 Hendershott felt that MCSO was the rightful controller of the system. As reflected on

1 pp. 102-104 of Exhibit II6a, Loretta Barkell reviewed her understanding of the litigation
2 that had taken place relating to the Zone 2 system.

3
4 Loretta indicated that it was a "hostile takeover" by MCSO of the Zone 2 system, and
5 Pragmatica did the reprogramming, which essentially prevented County employees who
6 worked with the system from access. The users of the ICJIS system still had
7 functionality, but MCSO had the main pass code for the system. She understands that
8 eventually, MCSO was required to turn control back over to the County, and allow them
9 to put the passwords back in so the three individuals, who worked in County IT, could
10 do their jobs.

11
12 **Scott Freeman**

13
14 Freeman indicated that there was contention between Maricopa County and MCSO
15 about who should have control over certain aspects of the computer technology
16 operations that covered NCIC, ACIC and criminal histories. Maricopa County Office of
17 Enterprise Technology (OIT) wanted to retain control. Ultimately, MCSO seized control
18 of the Zone 2 system. The day before this seizure, Freeman was at Phoenix PD,
19 briefing their IA on a case that they had involving several PPD Officers, when
20 Hendershott called him and indicated that he needed to speak with Freeman right away.
21 This was on or around November 11, 2009. When Freeman arrived at Chief
22 Hendershott's office, present were Chief Bunn, Chief Barkell, Bob Rampy and a fourth
23 individual besides Freeman and Hendershott. When he came into the room, there was
24 discussion about having armed Deputy Sheriffs go into County IT, searching desks,
25 searching files, and going through the computer systems for access codes. Freeman's
26 first concern was whether or not MCSO had a search warrant for this activity, and was
27 told that they did not. Freeman felt that it was inappropriate, on the logic of, "you can't
28 go into people's buildings, people's offices and search their desks and go through their
29 computers without a frickin' warrant." (p. 5, Exhibit II14a) Hendershott was insistent that
30 MCSO had the authority to do so.

31
32 Bob Rampy provided Freeman with several documents, citing two statutes, 41-1750
33 and 41-1756. Hendershott wanted Freeman to find an employee of the County the next
34 morning, named Wetzel, and threaten to arrest Wetzel if he interfered in any way with
35 what was going on or if they shut the power off to the Zone 2 system so that MCSO
36 wouldn't be able to do what they needed to do. Up to that point in time, OET personnel
37 from Maricopa County had been certified to have access to the criminal justice
38 databases, and MCSO had provided that certification, and had done the training. At
39 some point, MCSO stopped certifying the employees, although Freeman did not know
40 why. Apparently, DPS did an audit of the system security, and wrote a letter to the
41 Sheriff's Office, asserting that MCSO did not have a law enforcement person in control
42 of the system. DPS asserted that there were civilians from OET in control of the
43 system, and DPS considered this to be a violation. This DPS audit took place sometime
44 prior to 2009.
45

1 In any event, Freeman told Hendershott that he was not prepared to go across the
2 street and threaten to arrest any County Executives until he had an opportunity to
3 review the statutes and make sure that MCSO was well within its rights with what had
4 been proposed. Hendershott asked Freeman to be the "tip of the spear." According to
5 Freeman, Hendershott basically stated, "You're going to go over there and find this
6 Wetzel guy and tell him that he's going to be arrested if he in any way shape or form
7 interferes with what we're going to do down there." (pp. 6-7, Exhibit II14a)

8
9 Subsequently, Freeman obtained copies of the statutes, and read the letter from DPS.
10 He noted that the letter from DPS indicated that MCSO was in violation because law
11 enforcement was not in charge of the system. It did not say anywhere that Maricopa
12 County Sheriff's Office was required to be in charge. There are three such entities
13 participating the Zone 2 system, the Maricopa County Sheriff's Office, the County
14 Attorney's Office and Adult Probation, which are all, by definition, law enforcement
15 agencies. Scott's reading of the statute was that any of the entities in Maricopa County
16 could be placed in charge of Zone 2. It would be logical for the Sheriff's Office to be in
17 charge, because MCSO was the largest user. The bottom line, as Freeman put it, "I
18 found absolutely no justification, no authority to go forward with going across the street,
19 seizing control of these offices, kicking these people out of their offices and making
20 modifications to the computer system. In fact, to the contrary, I pulled up the statutes
21 that applied to computer tampering...." (p. 7, Exhibit II14a)

22
23 According to Freeman, Hendershott wanted MCSO to take all the passwords out that
24 belonged to the County, and lock the County out of the system so that they had no
25 access to the Zone 2 system. Given the wording of the statutes on computer
26 tampering, Freeman felt that MCSO might be vulnerable to criminal charges.

27
28 Freeman thereafter had a meeting with Shelly Bunn and Bob Rampy, and explained his
29 position. He told them that he was going to express to Chief Hendershott the same
30 position, and that either what Hendershott had proposed was not going to happen the
31 next day, or Freeman would be replace and someone else would do it.

32
33 Subsequently, Freeman spoke with Hendershott, explained his concerns, and
34 Hendershott indicated that Freeman didn't "have the big picture," or know all the facts.
35 (p. 9, Exhibit II14a) Hendershott further stated that he did not have the time to explain
36 them to Freeman. Hendershott instructed Freeman to contact Dave Trombi, and tell
37 him that Hendershott needed eight guys at the office the following morning, to deal with
38 the issue. At that time, Freeman was summarily dismissed from participating in the
39 activities that took place the following day, which went under Dave Trombi, when
40 Trombi did go to OET and take control of the Zone 2 system.

41
42 When asked if Freeman saw any misconduct issues, in this series of events, Freeman
43 said that there were some serious issues, and the matter was in still in litigation, as of
44 the time of the interview. Freeman's view was that MCSO should not have done the
45 seizure, did not have the authority to do so, and may have committed a crime in the

1 process. He could not say how the judge in Tucson, who is hearing the case, might
2 rule, but also did not discount the possibility that MCSO might be vindicated by the
3 judge.

4
5 Freeman indicated that he did not receive any sort of demotion or discipline as a result
6 of his refusal to participate, but was just told to step out of the process.

7
8 **Bill Knight**

9
10 Knight denied being involved with the actual seizure of Zone 2, but said that he had
11 grave concerns about Dave Trombi's actions. As Knight understood, the Sheriff's Office
12 was getting into a substantial conflict with the County, over what is commonly referred
13 to as Zone 2. Hendershott was going to use Bob Rampy, a MCSO employee who was
14 skilled with computers, to go to County IT and basically lock them out of their work
15 stations, preventing them from gaining access to the MCSO criminal justice information,
16 because Hendershott was not happy with the County having access. Knight questioned
17 whether MCSO had probable cause.

18
19 Knight explained to Trombi that he should really look into the situation before taking any
20 action so that he was not putting himself, Rampy or SWAT into a bad situation. When
21 Knight discussed the situation with Trombi, he voiced concerns, as did Trombi, and
22 Knight told Trombi this was one of the situations where Trombi was going to have to
23 "earn being a damn Deputy Chief." Knight believed the missions were eventually
24 carried out, however he does not know further details.

25
26 **Dave Trombi**

27
28 Trombi indicated that late one afternoon, he was contacted by Scott Freeman and told
29 that he was to report to Hendershott's office the following morning, along with other
30 Deputies of his choosing, to assist with an "operation," although Trombi is not sure how
31 Freeman termed it.

32
33 The following morning, he appeared as directed by Freeman, and also present were
34 Hendershott, Rich Johnson, and five or six other Deputies that Trombi had collected.
35 These Deputies came from the SWAT Division, were briefed about the operation.
36 Essentially, persons from the Sheriff's Office were going to be going to three locations,
37 one in the basement of 301 W. Jefferson, where the main server was located, and
38 another at 620 W. Jackson St. on the second floor. Trombi denied recalling the
39 significance of that particular office. There was a third off-site location, although he is
40 not sure if he was confusing this operation with another. In any event, he was told that
41 MCSO was going to be changing the password on the system. Trombi was given a
42 document on Sheriff's Office letterhead that contained the Arizona Revised Statute
43 regarding the security of the Criminal Justice System database, ICJIS. Trombi indicated
44 that the idea was to go in "very soft," meaning that they were not to proceed forcefully,
45 and to change the passwords.

1
2 Trombi's job was to act as a buffer should personnel at Maricopa County want to speak
3 with somebody. What happened, on site, however, was that Rich Johnson ended up
4 being the "front guy" in conversations with County personnel. Trombi says the
5 operation was uneventful, and the SWAT Team members had gone in wearing jeans
6 and blue windbreakers that identified them as associated with MCSO. They did not go
7 in dressed in SWAT attire. Trombi denied that he had received any instructions from
8 Hendershott to threaten Wetzel, as might be necessary.

9
10 **Rich Johnson**

11
12 Sgt. Johnson explained how he learned about the ICJIS/Zone 2 investigation.

13
14 A: Okay. Okay. ICJIS. Here's how I got brought into it. There were two of
15 us. One of them, he's serving in Iraq right now. His name's Matt Elo (phonetic).
16 But, I get a phone call saying, hey, I need you to be a briefing. It would have
17 been, I would imagine it would have been from Chief Hendershott. It had to have
18 been. I need you to be at a briefing on 19th floor at whatever time in the morning.
19 It's relating to ICJIS/Zone 2. And, okay. See Bob Rampy.

20
21 Q: At the briefing?

22
23 A: Yes. So, I get to this briefing in the conference room on the 19th floor,
24 SWAT team is there. Different Chiefs are there. Different Detectives are there.
25 The computer guys are there. And I said, Bob, what's going on? He goes, you
26 know what this is about? I said, yeah, it's a briefing to come see you. So, it goes
27 on and basically it was them going to change the password. Something with the
28 ICJIS computer, the justice computer. They were changing the passwords or
29 something. And what my job was, was to call Wetzel and to call, I can see his
30 face, because I've talked to him since, Boynton, which is Wetzel's number two or
31 three guy.

32
33 Q: And these are the folks over there at?

34
35 A: At OET.

36
37 Q: OET?

38
39 A: Yes, sir. And my job was to get a hold of them, and when I get a hold of
40 them it's find them, hand them a letter that had been drafted that just says, I don't
41 remember what it said. But, said something to the effect of hey, the Sheriff's
42 Office pursuant to something management. It was called something management.
43 Has to do with ICJIS control and criminal justice information control. That the
44 Sheriff's Office is changing the password and assuming control of the passwords
45 of that system.

1
2 On his way to meet Dave Trombi in the lobby of the County Administration Building, Sgt.
3 Johnson ran into Dave Boynton, gave him a copy of the letter and told him that the
4 Sheriff's Office is changing passwords and assuming management and control of ICJIS.
5 Dave Trombi then joined them and Trombi spoke to Boynton as well. They then went
6 into a private office and Johnson spoke with Wetzel on his cell phone to inform him what
7 was going on. This was the extent of Johnson's involvement.
8

9 **David Hendershott**

10
11 Hendershott acknowledged that this matter is still in litigation, and has been in litigation
12 for years. He did at one point ask Freeman to organize the seizure of the system and
13 the changing of the passwords. When asked what Freeman's response was,
14

15 A: Well, it seemed to me like he was asking a lot of questions that weren't
16 necessarily improper questions, but it was late in the day and it was something
17 that had to happen the next day. Through the litigation everything we thought we
18 were going to happen was going to happen. So we made the right move when we
19 did it. And, and frankly he was asking a lot of questions about, well, why this,
20 why this. And it was stuff that had he been there two and a half years ago when
21 all this started, okay, he wouldn't ask those questions. And I remember trying to
22 say, Scott, this is a long deal. This is not, you know. And what I was trying to
23 do. There was a whole subset of this investigation that involved Bob Rampy, who
24 was the Systems Controller and who was the, he was, Bob Rampy was the
25 Commander of the system who reported to DPS and he literally was responsible
26 for the system and all of the people in the system for the security. Okay? And,
27 there's a term for that and they call it the lasso. Lasso, or something like that,
28 which is over the system security Officers and so, county wide for our node he
29 was the contact. And, I will tell you, there's a great summary of the entire Zone 2
30 thing that's about 65 pages long, but, I mean it goes into the whole Zone 2 thing,
31 but suffice to say, that what the county had done and did do was violate federal
32 and state law. Okay? And, I mean, that's, it was pretty darn clear to us and
33 subsequent to that in the litigation it's there. Okay? Now, what Scott got was a
34 piece when we were basically, we received our attorneys got it and we got it that
35 was basically an ultimatum that said if by midnight tonight we don't do "x" that
36 they were going to do something.... (p. 47, Exhibit II16f)
37

38 Hendershott indicated that Freeman "wanted to ask ten million questions" for which
39 Hendershott did not have the time to answer, and he told Freeman, "I got it, don't worry
40 about it, I'll take care of it." He subsequently called Chief Deputy Trombi, informed
41 Trombi what needed to be accomplished. Hendershott denied that any instructions
42 were given to threaten Steve Wetzel, who according to Hendershott had the ability and
43 skill to "basically pull the plug on the system that would have cut all law enforcement
44 activity to a number of cities..." According to Hendershott, this would have basically
45 disabled the law enforcement system. Hendershott told Trombi to find Wetzel, and to

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- 1 put on tape the admonition that MCSO was changing the password, and that Wetzel
- 2 was not in any way going to attempt to disable the system. He did acknowledge telling
- 3 Trombi to tell Wetzel not to attempt to disable the system or he would be arrested.
- 4